* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision : February 06, 2007

\+ W.P. (C) 17945/2004

RAMKRISHAN SHASTRI ..... PETITIONER
Through : Ms. Maldeep Sidhu, Advocate

versus

D.D.A. .... RESPONDENT
Through: Mr. Pawan Mathur, Advocate

CORAM:
HON'BLE DR. JUSTICE S. MURALIDHAR

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in Digest? Yes

O R D E R

: Dr. S. Muralidhar, J.(Oral)

1. Petitioner no.1 is described as General Secretary of the Harijan Adarsh Kalyan Samiti. Petitioners no. 2 to 13 claim to be the members of the said Samiti. They have come together to file this writ

petition seeking, inter alia, the following relief:-

> "i) This Hon'ble Court may issue orders calling for the entire record available with the respondent in respect of the acquisition and allotment of plots of 50 sq yds. each, to the petitioner members (12-13 families) who are residents of Village Madipur, Delhi for the last more than 25 years, before their homes were acquired., including the site plan and such other documents as may be deemed fit by this Hon'ble Court for ensuring the protection of the rights of the petitioner."

2. It is the case of the petitioners that by a notification dated 13.11.1959, land measuring 2632 bighas and 18 biswas situated in Village Madipur, Delhi was notified for acquisition under the Land Acquisition Act 1894. This culminated in an award No. 1691/1974. The petitioners do not dispute the fact that they were not the land owners or owners of any structures thereon and, therefore, their names did not figure as claimants in the said land acquisition award.

3. It is stated that considering the plight of persons like the petitioners, a meeting of the Gram Panchayat was held in Village Madipur, Delhi on 28.6.1962 where it was unanimously decided that some land would be allotted to the harijans of said village. It is stated

that a communication dated 30.10.19963 was received from the Secretary Harijan Welfare Board, Development Department, Delhi that the proposal for release of land to the harijans was under the active consideration of the Housing Commissioner, Delhi. Thereafter, the petitioners claim to have made several representations. A letter was received on 10.4.1970 from the Land & Building Department, Delhi Administration asking them to produce the revenue record. It is claimed that a further communication was received on 23.7.1980 from the DDA asking for site plan and location plan for the purpose of scrutinizing the case of the petitioners.

4. On 24.3.1982, the respondents allotted 50 sq. yds. of land each to five Harijans of Village Madipur but the petitioners were not allotted any land. They claim to have made several representations thereafter. The documents show that some recommendations were made by one agency to the other for favourable consideration of the petitioners' request.

5. The response of the DDA to this writ petition is that the petitioners do not figure in the survey originally conducted in the year 1963 at the time of acquisition of the land. It is submitted that allotment of alternative land was only given to such persons whose

names figured in the survey. It is further stated as under:-

> "It is stated that as per the Survey carried out, there were 62 persons who were affected and out of those persons, 52 persons were allotted plot at Mangol Puri in Rohini Residential Scheme, while the remaining 10 families did not want to go out of Madipur area. It is stated that on the recommendation of the Lt. Governor, Delhi they were made offers for allotment in Madipur area itself. It is further stated that the plots were offered but only 8 plots could be allotted, since Gian Chand could not be allotted a plot since his father Shri Kundan Lal had been allotted and further Shri Surat Singh was not an SC/ST. It is further stated that Shri Kundan Lal to whom the plot had been offered did not take the possession of the same since he wanted another plot be allotted in favour of his son Shri Gian Chand. Further the case of Shri Gian Chand was not considered since the Head of the family written statement entitled to one plot only. It is therefore, stated that only 7 persons accepted the allotment of the land in Madipur area itself."

6. Ms. Maldeep Sidhu, learned counsel for the petitioner states that petitioners have been knocking at the doors of the respondent

authorities for several years and their request should receive a favourable consideration at the hands of the authorities. She further questions the allotment made to five persons who, according to her, were not residents of Village Madipur at all and have therefore wrongly been allotted alternate land. On the other hand, Mr. Pawan Mathur, learned counsel for the DDA submits that the case is clearly barred by laches and in any event since the petitioners do not figure in the Survey, there is no question of their being eligible for allotment of alternate land.

7. On consideration of the documents on record and the submissions of the counsel, the Court is of the view that the petitioners have failed to make out a case for grant to them of the relief sought for in this writ petition. Admittedly, the petitioners do not figure in the land acquisition award. Their names are not to be found in the Survey said to have been conducted by the DDA way back in 1963. It is not open to the petitioners to question the allotment of alternate land to only five persons when in the first place the petitioners have not been able to prima facie establish that each of them is entitled to allotment of alternate land. No factual foundation has been laid to enable the Court to come to the conclusion that the petitioners have a lawful right to allotment of alternate land

consequent upon the acquisition made by way of the land acquisition notification issued in 1959. There is also considerable merit in the submission of the respondent that the case is barred by laches.

8. For all the above reasons, there is no merit in the writ petition and it is dismissed as such.

S.MURALIDHAR, J

February 06, 2007
raj